

Minutes
Workers' Compensation Advisory Council
September 10, 2007
10:00 am, Great Northern Hotel, Helena

Advisory Council members present: Lt. Governor John Bohlinger, Bill Dahlgren, Annette Hoffman, Don Judge, Jason Miller, Danny Lee, Doug Buhman, Bob Worthington, Jerry Keck

Project team members present: Diana Ferriter, Keith Messmer, Judy Bovington, Jeanne Johns, Sharon Peterson, Wade Wilkison, Dave Elenbaas, Debbie Blossom, Jim Dobbins

I. Welcoming & Opening Remarks

Lt. Governor John Bohlinger opened the meeting by thanking those in attendance for coming. He had members of the advisory council and the audience introduce themselves.

II. Approval of Agenda/Minutes

The agenda was approved. The minutes of the August 7, 2007 meeting were approved.

III. Introduction of Return to Work Topic

Jerry Keck introduced the Return to Work project by discussing the high rate of injuries and longer duration of injured workers out of work that is seen in Montana compared to the other study states. The higher injury rate and longer duration result in higher medical care and indemnity costs to the system. He pointed out that we need to find a way to incentivise early return to work. He then introduced Richard Pimental from Milt Wright and Associates.

Richard Pimental talked about the importance of having a return to work program as part of a good safety program. He emphasized how workers who choose to work safely are treated is very important to your safety message. The worker may have to slow down to work safely, is this ok in your business? He then outlined successful programs that he has been involved with where physicians were incentivised to treat the injured worker early and often and the result was dollars being saved over the life of the claim as workers returned more rapidly to work. He stressed that doctors need training in return to work, because it isn't a part of their medical degree training. ACOEM has developed good return to work guides that can help in this effort. Physicians should be paid for taking the return to work computer courses to show that the system is serious about this effort.

Diana Ferriter and Erin Austin presented an overview of return to work and the analysis of workers' compensation claims data. The WCRI Administrative Inventory revealed that the frequency of indemnity claims in Montana is 52% above the median of 46 states. 5% of injured workers receive vocational rehab benefits in Montana compared to less than 1% nationally. The average return to work days is 136 compared to the countrywide average of 85 days. ERD data indicates that injured workers will lose 40.5% of the wages they would have earned if they hadn't been injured. Paid wage loss benefits increase 127% when a worker is off longer than 30 days and 681% when the worker is off longer than 180 days. Diana outlined some options for the group to look consider.

Don Judge suggested subgroups to work with department staff in an effort to improve the system to return injured workers to work sooner. After some discussion it was decided that 3 subgroups should be formed to look at research and data collection, defining vocational rehabilitation and developing return to work opportunities.

Council members volunteered to work on the following groups:

- research and data collection: Annette, Connie and Jacquie (Connie and Jacquie were volunteered in their absence)
- defining vocational rehabilitation: Don, Bill and Annette
- developing return to work opportunities: Bob, Doug and Jason.

IV. Update on Montana Statewide Safety Initiative

Jerry Keck gave an update on the Department's work to staff two positions to start on an inventory of State safety resources. He also announced that Scott McCloy will be attending the Governor's Conference and will speak for about 30 minutes about the WorkSafeBC model. The Department has started work to trademark WorkSafeMT for the safety initiative. It was suggested by a member of the audience to consider WorkSafelyMT as a more grammatically correct version.

V. Updates on Medical Nonfacility Fee Schedules

Keith Messmer reported that the Fee Schedule administrative rules were noticed on September 6th and that the hearing will be held on September 28th. The rules implement the requirements in HB738 that the Department adopt an RBRVS schedule and set the conversion factor not more than 10% above the factor used by the top 5 disability insurance carriers in the state.

VI. Discussion of Workers' Compensation Exemptions

Diana Ferriter reviewed a handout with the council that outlined the exemptions from workers' compensation coverage in Montana and other states and presented options for consideration. Don Judge recommended that a sub-group be formed to look at this issue and that Riley Johnson chair the subgroup since he was the one that raised the issue originally. Bob Worthington and Danny Lee volunteered to work on this subgroup. There was discussion among the group regarding what happens when someone who is exempt gets seriously injured. Don Judge said that the employees may be filing on their health insurance policy, but these policies typically have an exclusion for a work related injury so the burden may fall on the social system. It was suggested that the subgroup go through each excluded category and determine if makes sense to continue to allow the exemption and bring the group's work back to the next meeting.

VII. Discussion of Regulation/Licensing of Claims Examiners

Senator Vicky Cocchiarella presented a history of the licensure of claims examiners in the State. In 2003 the State Auditor's Office began licensing public adjusters. There were no testing requirements to get the license. In 2005 she sponsored legislation to change the workers' compensation titles from claims adjusters to claims examiners, so the licensing requirements would no longer apply to workers' compensation claims examiners. TPAs working for national companies are generally required to have the license and must now pass an exam that covers only Title 33, not the workers' compensation laws.

Diana Ferriter then covered options that could be considered by the Council. After some discussion it was decided that the Department should get claims examiners involved and come up with recommendations for the next meeting. It was suggested that the Governor's Conference would be a good time to meet with claims examiners and get their input.

VIII. Public Comment

Public comment was taken throughout the meeting on the agenda topics.

VIII. Next Steps

Organize the subgroups looking at the return to work and exemptions.	Diana	November 13, 07
Plan meeting at the Governors Conference regarding claims examiner licensing or education.	Diana	October 5, 2007
Bring more focused recommendations on RTW to next meeting	Jerry	November 13, 07

IX. Next Meeting

Tuesday, November 13, 2007, time and location to be determined.